Communications Workers of America, AFL–CIO, Local 9509 *and* Jane A. Cole. Case 21–CA–27216

May 31, 1991

DECISION AND ORDER

BY MEMBERS CRACRAFT, DEVANEY, AND OVIATT

On December 27, 1990, Administrative Law Judge Michael D. Stevenson issued the attached decision. The Respondent filed exceptions, a supporting brief, and an answering brief. The General Counsel filed cross-exceptions, a supporting brief, and an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order as modified.[2]

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, Communications Workers of America, AFL–CIO, Local 9509, San Diego, California, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

Insert the following as paragraph 2(c) and reletter the subsequent paragraph.

''(c) Mail a copy of the attached notice to all office clerical employees employed by the Respondent at its San Diego facility at the time of its unfair labor practices. Such notice shall be mailed to the last known address of each employee. Copies of the notice, on forms provided by the Regional Director for Region 21, after being signed by the Respondent's authorized representative, shall be mailed immediately upon receipt by the Respondent, as directed above.''

[1] The General Counsel and the Respondent have excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. Standard Dry Wall Products, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

We also find without merit the Respondent's allegation of bias and prejudice on the part of the judge. On our full examination of the record and the judge's decision, we perceive no evidence that the judge made prejudicial rulings or demonstrated bias against the Respondent in his analysis or discussion of the evidence.

[2] The Respondent alleges that changed circumstances make the notice-posting requirement of the Order no longer appropriate. In this respect, the Respondent requests that the record be reopened to receive an affidavit from its current president averring that the Respondent has no regular full-time office clerical employees at this time, but instead utilizes its own members to perform the office work. The General Counsel opposes this request. We deny the Respondent's request to reopen the record. We note that the Respondent continues to have employees, who are its members, perform the office work at its San Diego facility over which it still has access and control. The posting requirement therefore is still appropriate, whether or not the facts asserted in the affidavit are true. Additionally, in order to assure that the former office clerical employees are notified of our decision, we will require the Respondent to mail notices to them. See *Missouri Portland Cement Co.*, 291 NLRB 1043 (1988).

Brian J. Sweeney, Esq., for the General Counsel.
Larry Drasin, Esq. (Lawrence Drasin & Associates), of Los Angeles, California, for the Respondent.
Jane A. Cole, Pro Se, of San Diego, California, for the Charging Party.

DECISION

STATEMENT OF THE CASE

MICHAEL D. STEVENSON, Administrative Law Judge. This case was tried before me at San Diego, California, on May 31, June 1, and July 10 and 11, 1990,[1] pursuant to a complaint issued by the Regional Director for the National Labor Relations Board for Region 21 on January 30, 1990, and which is based on a charge filed by Jane A. Cole (Charging Party or Cole) on December 5. The complaint alleges that Communications Workers of America, AFL–CIO, Local 9509 (Respondent) has engaged in certain violations of Section 8(a)(1) of the National Labor Relations Act (the Act).

Issues

Whether Respondent acting through its agent, Union President Douglas J. Woodbury, committed one or more of the following acts, thereby interfering with, restraining, and coercing employees in the exercise of rights guaranteed by Section 7 of the Act.

(1) Announced, promulgated, and maintained a rule prohibiting employees from discussing wages, hours, and other terms and conditions of employment and from participating in union and/or concerted protected activities;

(2) Threatened employees who engaged in union and/or other protected concerted activities, with withdrawal of aid in obtaining employment with an employer with whom Respondent has a collective-bargaining relationship, with a layoff, with a change in wages, and with discharge.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and to cross-examine witnesses, to argue orally, and to file briefs. Briefs, which have been carefully considered, were filed on behalf of General Counsel and Respondent.

Upon the entire record of the case, and from my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT

I. RESPONDENT'S BUSINESS

Respondent admits and I find that at all times material, it is and has been a labor organization within the meaning of Section 2(5) of the Act. In the course and conduct of its business operations as a labor organization, Respondent annually receives per capita dues in excess of $50,000 from

[1] All dates refer to 1989 unless otherwise indicated.

Communications Workers of America, AFL–CIO, which is headquartered in Washington, D.C. I also find that Respondent is, and has been at all times material, an employer[2] engaged in commerce and in a business affecting commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Facts*

1. Background

This case is about a union at war with itself. One faction (the ''ins'') is led by Douglas Woodbury, Respondent's president for the past 15 years. He is assisted in running Respondent's affairs by Louise Rogers and Carol Stegall, executive vice president and vice president respectively. These three and certain of their supporters testified for Respondent both in its case-in-chief and in surrebuttal.

A second faction (the ''outs'') is led by Judy Beal, formerly Respondent's chief steward until dismissed by Woodbury in December. Beal was called as an adverse witness by Respondent; certain of her supporters testified for General Counsel, both in his case-in-chief and in rebuttal. An election of Respondent's officers is fast approaching and may already have occurred by the time this decision is published.

All or most of Respondent's officers and subordinate officials such as stewards are on leaves of absences from their corporate employers such as PacBell or AT&T.[3] Because the union jobs are more highly prized than the corporate jobs, the factions have become bitter rivals. Long-term friendships have dissolved as for example between Rogers and Beal; even two sisters Stegall and Levin are on opposite sides. In some cases Beal's supporters have voluntarily relinquished their union jobs and returned to their corporate jobs as a protest of Woodbury's termination of Beal.

While this internal strife was occurring, Respondent employed two clericals, Catherine Yvonne Shull (formerly Catherine LeCroix) who started work on January 18, 1988, and Jane Cole who started work in May 1988. Cole quit her job in January 1990, and has not yet been replaced. Much of the work Cole formerly did is now being done by Stegall (who also performed the work before Cole was hired).

Shortly after Cole was hired, both clericals participated in organizing activities on behalf of Office and Professional Employees International Union, Local 30 (OPEIU). Ultimately these efforts were successful and in late 1989, Woodbury began negotiating with Kitty Simmons, business representative for OPEIU and witness for the General Counsel at hearing. After five bargaining sessions, the parties reached agreement on a labor contract covering a one-person unit of Respondent's clericals, a position now held by Shull. On or about June 22, 1990, the agreement was signed (R. Exh. 1).[4]

[2] A labor organization which engages in multistate activities such as Respondent here, is an employer under the Act and subject to the Board's jurisdiction. *Office Employees Local 11 v. NLRB*, 353 U.S. 313 (1957).

[3] Respondent represents large units of employees from these corporations and a number of smaller companies. Respondent's membership is approximately 2500 persons.

[4] Respondent currently employs a recently retired member, on a part-time basis to work on special projects. Both sides agree that this person is not part of the unit.

Shull and Cole's organizing activities on behalf of OPEIU became embroiled in Respondent's political turmoil as recited below. All of this forms the background for the unfair labor practices of which Respondent stands accused. Before sorting out the contested facts, I include some additional background.

2. Respondent and OPEIU's bargaining history

Beginning in the early to mid-1970s, OPEIU represented Respondent's clericals. So far as this record shows, up to January 1988, the collective-bargaining relationship was satisfactory and unremarkable. Then a single grievance was filed and slated for arbitration, but ultimately was settled before evidence was presented. That grievance, on behalf of clerical Penny Massee, allegedly motivated certain of Woodbury's actions with respect to Shull and Cole. Before explaining, earlier events must be considered.

On October 28, 1987 and again on November 2, 1987, Woodbury sent notices to OPEIU terminating the labor agreement as of February 28, 1988 (G.C. Exhs. 16 & 17). On December 24, 1987, Respondent's attorney sent a letter to the Federal Mediation and Conciliation Service which reads as follows:

> December 24, 1987
>
> Federal Mediation and Conciliation Service
> 880 Front Street, Suite 4-N-24
> San Diego, CA 92101
>
> California State Conciliation Services
> 1350 Front Street
> San Diego, CA 92101
>
> Re: CWA Local 9509 Termination of Contract with Offices and Professional Employees Union, Local 542
>
> Gentlemen:
>
> Please be advised that Communication Workers' of America, Local No. 9509 has given notice to the Professional Employees Union, Local 542 that it is terminating its agreement with Local 542 effective on the termination of its current contract on February 28, 1988. It is the position of Communication Workers' of America, Local 9509 that there is no obligation to negotiate in as much as the employer no longer directly employees (sic) any employees covered by the agreement and therefore there is no longer a bargaining unit.
>
> Sincerely,
>
> LAW OFFICES OF DONALD A. HON
> /s/ Donald A. Hon
> DONALD A. HON
> Attorney at Law
>
> DAH/pjc
>
> cc: Kathy Simmons, Trustee OPEIU
> 4990 Williams Street, Suite 3
> La Mesa, CA 92041
>
> CWA, Local 9509
> 7548 Trade Street
> San Diego, CA 92121

(G.C. Exh. 3)

Simmons testified that she accepted Hon's representations in the letter, as she was aware that both clericals employed

by Respondent had left the job through attrition. Respondent did not immediately replace the clericals, but instead began using on a temporary basis some of Respondent's own members who had been laid off from their jobs.

Returning to the Massee arbitration, I note that OPEIU was represented by Attorney Clayton Beavers who entered into the settlement, on behalf of Massee. According to Woodbury, Beavers told Woodbury during settlement negotiations[5] that these ''onesies and twosies' are a pain in the ass. I don't want these onesies and twosies'' (Tr. at 187). This was a reference to one and two person bargaining units, according to Woodbury.

Beavers was not called as a witness. At one point General Counsel represented that he had just spoken with Beavers by phone—this was about 1 month after the issue had first arisen—and requested a continuance to bring in Beavers as a rebuttal witness (Tr. at 886–887). Later after consultation with his superiors, and before I ruled on the motion for a continuance, General Counsel withdrew his motion for a continuance because General Counsel's supervisor didn't believe the case would turn on the issue (Tr. at 951).

Respondent called Rogers back on surrebuttal to corroborate Woodbury.[6] She didn't exactly accomplish that feat. First, she didn't recall Beavers using the term ''onesies and twosies.'' What he did say, according to Rogers, is that he didn't have the time, the money, nor the energy to spend on a case for such a small unit (Tr. at 999–1000). Beavers allegedly added that it cost more for OPEIU to do the job for one or two people than the Union gets in dues (Tr. at 1001).

Simmons was also called back as a witness, this time by Respondent. She testified that OPEIU, prior to a recent merger, represented about 36 bargaining units. Of these, 10 units are two person or one person units. Although Simmons played an undefined role in the Massee arbitration, she was not aware of any statement made by Beavers as described by Woodbury. Finally, Simmons explains that OPEIU frequently organizes the clericals employed by other unions, and typically these units are small.

On the basis of this evidence, I find that Beavers never made the statement attributed to him by Woodbury. If he did make the statement, either as described by Woodbury or as described by Rogers, it could not reasonably be interpreted as an official statement of OPEIU policy nor relied on by Woodbury to explain subsequent actions not yet reported in these facts.

3. The clericals' union activities

According to Woodbury, he had desired an office manager for some time prior to the employment of Cole in May 1988. In fact, according to Woodbury, he had offered to make a clerical named Ethel Comp, employed by Respondent between December 1986 and October 1987, office manager. However, a month after the offer was made, Comp quit to relocate to another part of the country. Other clericals who followed Comp and preceded Cole did not work out, stated Woodbury. Although Woodbury was aware Cole had been fired from her former job at PacBell for poor attendance, Woodbury testified that Cole had been hired as a clerical with the expectation she would become office manager within a short time. Both Stegall and Rogers testified they advised Woodbury not to promote Cole immediately, as this would be unfair to Shull who was 6 months senior to Cole. Moreover, Cole had not proven herself able to function in Respondent's office setting. Accordingly, Woodbury accepted the advice from Rogers and Stegall and decided to wait, without having told Cole about his alleged future plans for her.

Meanwhile, Shull and Cole became fast friends on the job and jointly decided that certain aspects of their job could stand improvement. Accordingly in July 1988, both clericals signed union authorization cards which they forwarded to Simmons. On July 21, 1988, Simmons prepared an RC petition for a unit composed of Shull and Cole (G.C. Exh. 2). Copies of the petition and of the signed union authorization cards were submitted to Woodbury (G.C. Exh. 2).[7]

On or about August 1, 1988, Woodbury met with Cole and told her that he desired to promote her to office manager/confidential secretary. After considering the offer over night, Cole accepted the promotion and received a pay raise from $8 to $12 per hour. Shortly after this promotion, Stegall called Simmons to say that Cole had been promoted to a position as office manager, a statutory supervisor, and because that left only a one person bargaining unit, the unit was not appropriate for bargaining. Simmons accepted the representation, and after conferring with both Shull and Cole withdrew the RC petition sometime in mid-August 1988.

Subsequent to these events, Woodbury claims to have prepared and Stegall testified that she typed a letter to Simmons which reads as follows:

> September 7, 1988
>
> Kitty Simmons
> OPEIU Local #542
> 4990 Williams Avenue, Suite 6
> La Mesa, CA 92041
>
> Dear Kitty,
>
> Please be advised that CWA Local 9509 is agreeable to renegotiating a new collective bargaining agreement with your union. Contact me at your earliest convenience so we can make arrangements to begin bargaining.
>
> Sincerely,
>
> /s/ Doug Woodbury
> Douglas J. Woodbury
> President
>
> DJW/cls

(R. Exh. 2)

[5] No issue was raised by any party pursuant to Rule 408 of FRE that any statement allegedly made by Beavers was barred because it was made in the course of settlement negotiations.

[6] When Rogers first testified, she was asked on cross-examination to explain whether she was romantically involved with Woodbury. She refused to give a clear answer to the simple question, in violation of my order for her to do so; instead, she became evasive, argumentative, and defensive. I refused to strike her testimony, but I believe her testimony merits close scrutiny, as her demeanor indicates something more than a purely platonic relationship with Woodbury.

[7] The petition recites that a demand for recognition was made on June 27, 1988, and refused on July 15, 1988. Simmons did not adequately explain the dates which were not consistent with Cole's testimony as to when she signed the card.

Stegall also testified that after the letter was signed, she placed the letter in an appropriately addressed and stamped envelope which she then placed in the office mail basket for mailing by regular mail.

Simmons testified she never received this letter, had no knowledge of its contents, and therefore never responded to it.

Sometime after Cole had been promoted,[8] Shull talked to Woodbury in his office and told him ''it was time to cut the bullshit out because I realized what he had done with Jane and I wanted to know what that meant with me being represented'' (Tr. at 269). Shull went on to testify that she was aware that Cole was made her supervisor so they would be ineligible for representation. Woodbury stated that a union wouldn't represent a bargaining unit of one, so Shull called Simmons to report what had happened and that the petition should be withdrawn.

Meanwhile Shull and Cole continued working together, for the most part doing exactly what they had been doing before Cole's alleged promotion. At one point, a new system was introduced by which those persons desiring clerical work to be done would need to have the work approved either by Stegall or Rogers, who also determined priorities.

During a Christmas party in 1988, Shull, Cole, Stegall, Rogers, and several of the stewards circulated a ''wish list'' around. Each person was supposed to write on it what they desired for Christmas within a certain price range. Shull wrote down as a joke that she desired union representation for Christmas. When Woodbury became aware of this, he stated, ''that's not funny!'' Stegall interpreted Shull's act as a slap in the face to Respondent.

Due to severe medical problems, Shull had been missing a great deal of work. Either Woodbury or Stegall told Cole to counsel Shull and warn her that improvement was necessary. Cole followed instructions and documented the meeting of August 31 (R. Exh. 4).

On or about November 6, Shull prepared a letter to Respondent's executive board, which reads as follows:

> November 6, 1989
>
> Dear Executive Board Member of CWA Local 9509:
>
> Since I am not Union represented and have no one else to defend me, I wish to appear before the November Executive Board meeting in an attempt to remedy actions taken on October 30, 1989 regarding my anticipated disability and the conditions of the probation which I have been placed on.
>
> The following are items I seek to be remedied:
>
> o No disability benefits. The Union should pay the difference between what I receive from SDI and my weekly wages.
> o My IRA account being contingent on the probation period. I want it reinstated as it has nothing to do with my attendance.
> o One (1) year probation for attendance (October 30, 1989 to October 29, 1990) I feel 6 months is more reasonable and in line with other companies.
> o Termination with out progressive discipline. As per documentation I have requested guidelines and have been told none would be established. I feel termination would be unfair and unreasonable. If needed, progressive discipline should be followed.
>
> I have enclosed copies of documentation along with my attendance records for your review. A summary of my attendance for the past year is as follows

Occurrences	*Full Days*	*Partial Days*
	RELATED TO PLANNED SURGERY	
7	7	2
	OCTOBER 1988 TO OCTOBER 1989	
11	14	3
- 6	- 6	
5	8	

> I am entitled to 6 days, at 4 hours per month, accrual sick leave. Since the surgery should take care of the health problem I should not experience the number of occurrences that have accrued in the past. Taking in to consideration the total number of occurrences and days, minus the allowed 6 days, I feel my attendance falls within an acceptable range.
>
> I wish to thank you in advance for taking this matter into consideration.
>
> Sincerely,
>
> /s/ Cathy LeCroix
> Cathy LeCroix
>
> enclosure
>
> cc:
>
> Doug Woodbury — Louise Rogers
> Bob Sarsfield — Carol Stegall
> Frank Sarmiento — Nancy Hermann
> Patsy Maier — Judy Beal

(G.C. Exh. 8)

Shull also prepared a note to Bob Sarsfield, Respondent's secretary/treasurer, and a Woodbury supporter, asking that she be scheduled for the executive board agenda (G.C. Exh. 9). Before the meeting began on November 6 or 7, Shull also asked Woodbury for permission to speak at the executive board, but Woodbury refused permission and stated he would discuss the matter with her the next day. Woodbury successfully kept Shull's letter off the agenda.

The following day Woodbury told Shull that he had grounds to terminate her for writing the letter to the executive board. Rogers had strongly advised Woodbury to terminate Shull on the spot for insubordination. However, Woodbury declined to fire Shull, giving her an oral reprimand instead. There followed a discussion of Shull's medical problems, her attendance, and other personal concerns. Woodbury concluded the meeting by telling Shull that if she discussed any personnel matters or complaints with anyone

[8] Shull testified that this conversation occurred in late July 1988, but assuming Cole knew when she was promoted, I find the conversation must have been later than described by Shull.

other than himself, Rogers or Stegall, she would be terminated.[9]

On November 21, Woodbury attended a general membership meeting of the Union. Like the executive board meeting, both Woodbury supporters and opponents turned out for what was to be a raucous and disorderly meeting and the catalyst was to be Shull's letter of November 6 recited above.

Exactly who said what at this meeting cannot be determined with precision. Both General Counsel and Respondent called Woodbury's opponents and supporters respectively, to testify regarding relevant events. Some differences are evident,[10] but all seem to agree that the subject was introduced by Tim Sexton, a Woodbury opponent and witness for the General Counsel.

Sexton asked Woodbury in front of the 30 or more attendees whether the office clericals are represented by a union, Woodbury answered that they are not. Sexton also questioned why Shull's letter to the executive board had not been discussed at the prior meeting.[11] Robert Sarsfield, a union official and a Woodbury supporter explained that Shull's letter hadn't been discussed because she was not a member of the Union and the executive board lacked jurisdiction.

Woodbury said that OPEIU was not interested in representing ''onesies or twosies'' and thus was not interested in representing Respondent's single clerical, Shull. Woodbury went on to explain that Cole was then a supervisor and confidential secretary, so she was not eligible for the unit. In any event, Woodbury added, Respondent's wages and benefits were better than what the could expect if they were represented by OPEIU and they were better off without the Union. Sexton replied that he had spoken to Simmons before the meeting and she said OPEIU was interested in representing one or two person units.

To this, General Counsel rebuttal witness Frank Sarmiento, a Woodbury opponent, and Respondent vice president in charge of organizing, slammed his fist down loudly and proclaimed that Woodbury's remarks were similar to those he heard from employers he was trying to organize. Woodbury denied he was opposed to the clericals being represented.

After further heated discussion, a motion was passed requiring or encouraging Respondent's clericals to be represented. Woodbury said that while union representation was a matter of the clerical's choice, he would honor the members' wishes and accept the spirit of the motion to be taken back to the clericals. As Woodbury left the podium, some persons (all Woodbury opponents) heard him say to himself, ''It'll never happen.''

On the day after the membership meeting, November 22, Woodbury talked to Cole at the union office. He told Cole about the members' vote that clericals should be represented by a union. Woodbury added that before Cole decided on her preference, she should consider factors such as initiation fees and membership dues. Woodbury continued, that a decision to select a union might affect Woodbury's efforts to secure Cole's old job back at PacBell. That is, Woodbury stated, he could be accused of negotiating a sweetheart contract or of playing favorites. (Prior to this conversation, Cole had requested Woodbury's assistance in returning to her old job).

Notwithstanding the above conversation, on November 29, both Cole and Shull signed union authorization cards for the second time (appended to G.C. Exh. 4). These cards were forwarded to Simmons who called Woodbury within a day or so of receipt, to inform him of the clericals' desires. After completing his phone conversation with Simmons, Woodbury walked outside his office to the clerical area and asked Cole if the desire for union representation included her. When Cole answered affirmatively, Woodbury explained that Cole would have to be returned to the unit and then because a new office manager would have to be hired, either Cole or Shull would have to be laid off. Woodbury concluded by saying he wasn't certain if Cole's salary would be affected by this change.

The following day, Woodbury asked Cole to put her desire to return to the unit in writing so that later on, she couldn't claim she was coerced. As to Cole's salary, Woodbury decided to ''red-line'' it. That is, while Shull would receive normal raises, Cole's salary would be frozen until such time as parity was achieved. This device would avoid the problem of Woodbury having to reduce Cole's salary, a procedure which Woodbury's opponents in the Union would not view with favor. A few days later, Cole was relieved of her key to Woodbury's office.

On December 4, Simmons sent Woodbury the following letter:

> December 4, 1989
>
> Doug Woodbury
> President
> CWA, Local 9509
> 7548 Trade Street
> San Diego, California 92121
>
> Dear Mr. Woodbury:
>
> By way of this letter, Office & Professional Employees International Union, Local #542 makes demand for recognition as the Certified Bargaining Agent, for all secretarial and clerical employees employed by the Communication Workers of American (sic), Local #9509. It is clear that OPEIU, Local #542 represents the majority of these employees.
>
> As per your request, December 1, 1989, I am enclosing photo copies of the signed Representation Application Cards executed by the current employees.
>
> After your review, please notify me as to times and dates of availability for negotiations to begin.
>
> Fraternally
>
> Kathleen (Kitty) Simmons
> Business Representative
> International Representative
>
> KS/mco
> opeiu#542
> afl-cio
>
> Enclosures

[9] Woodbury denied giving Shull any such instruction. Both Stegall and Rogers corroborated Woodbury that he didn't state a general rule, but merely told Shull not to discuss her personal grievances with officers or stewards of the local. I find Shull's account of this verbal rule more credible.

[10] I have reviewed the testimony of all witnesses who testified regarding the November 21 meeting and the notes taken by Foxyne Hinton, a Woodbury opponent and General Counsel rebuttal witness (G.C. Exh. 18). The account of the meeting provided below is my best effort after considering the evidence.

[11] Sexton testified he learned of Shull's letter after he received a copy in the mail sent to him by an unknown person.

(G.C. Exh. 4)

On December 11, Woodbury answered with a letter of his own:

December 11, 1989
Kitty Simmons
Business Representative
OPEIU, Local 542
4990 Williams Avenue, Ste. 3
La Mesa, CA 92041
Dear Ms. Simmons,

As I previously stated to you, CWA Local 9509 is willing to negotiate a collective bargaining agreement with OPEIU Local 542.

However, there is a legal question as to the status of Jane Cole. I am deferring this issue to the NLRB. By sending a copy of this correspondence, I am requesting the NLRB to resolve this issue. In this manner, all parties rights will be protected and a third neutral party will determine the resolution.

In the meantime, it is logical and reasonable that we begin formal negotiating upon the outcome of the NLRB's determination.

Should you have any questions or want to further discuss this issue, please don't hesitate to contact me.

Sincerely,

/s/ Doug Woodbury

Doug Woodbury
President

DW:jc

cc: Brian Sweeney
National Labor Relations Board
555 W. Beech Street
San Diego, CA 92101

(G.C. Exh. 5)

4. Clericals' political activities

Both Shull and Cole denied that they participated in the internal politics of Respondent, either overtly or covertly. However, on January 18, 1990, Cole had been overheard at work by Rogers talking by telephone to Woodbury opponent Foxyne Hinton about Respondent's membership meeting held one or more nights before. When Rogers told Cole that there was work to be done, Cole ended the phone call and objected to Rogers listening to Cole's private phone conversations. When Rogers admonished Cole not to be involved in union politics, Cole quit on the spot and walked out.

A few days before that incident, Rogers had overheard another call between Cole and Pam Levin, another Woodbury opponent. As Rogers inadvertently (she testified) picked up an extension phone at the same time as Cole did, she heard Levin ask ''Is the 'asshole' there?'' After Cole said Woodbury wasn't in, Levin asked if he were expected back that day. To this Cole replied, ''Not if I'm lucky.'' Levin then said, ''We could be lucky if he's gone all week.'' Then Cole concluded by saying, ''We could get real lucky and he'll be gone all year.''

Cole testified that she had worked for PacBell for 13 years and all or most of that time, she had been a member of Respondent, and still had a number of friends in the Union. Since 1986, however, Cole had not been a member of Respondent.

Meanwhile Beal and others instituted a recall campaign attempting to unseat Woodbury. On January 24, 1990, Beal wrote the following letter:

January 24, 1990

Robert Sarsfield - Secretary-Treasurer
CWA Local 9509
7548 Trade Street
San Diego, CA. 92121

Dear Bob,

Enclosed you will find petitions demanding the recall of Douglas J. Woodbury from the office of President of CWA Local 9509. The charges against Mr. Woodbury are as follows:

a. Willfully violating Article VIII, section 7A2 of the Local by-laws, which requires a 2/3 vote of the General Membership to remove a Chief Steward.

b. Willfully violating Article VIII, section 2B3 of the Local by-laws, which requires the Local President to initiate and execute Local Policies. By threatening and interfering with the Local Secretaries' desire to become union represented, President Woodbury deliberately violated action taken by the Local Membership at the General Membership Meeting on November 21, 1989.

There are 96 pages of petitions with an approximate total of 821 signatures. Please process these petitions on behalf of the members and in accordance with the CWA Constitution.

Sincerely,

/s/ Judy Beal
Judy Beal
Member in Good Standing
CWA Local 9509

cc: Douglas J. Woodbury
Harry Ibsen
Jim Booe

(R. Exh. 6)

About a week later, Beal filed charges against Woodbury with an official of the national union CWA. In pertinent part, the letter reads as follows:

2-2-90

Jim Booe
1925 K St. N.W.
Washington, D.C. 20006

Dear Jim,

I am filling (sic) the following charges against Douglas Woodbury, President, Local 9509, for the reasons stated. All information submitted is true to the best of my knowledge and these charges are filed in good faith.

1) Mr. Woodbury willfully and knowingly violated our local bylaws Article VII, section 7A2, on Dec. 5th, 1989, when he removed me as chief steward without a two-thirds vote of the membership. (See attachment #1)

2) Mr. Woodbury willfully and knowingly calculated strategies to keep the office secretaries from becoming union represented after the membership made a motion

> that was passed with only one dissenting vote on Nov. 21, 1989. (See attachments #2 and letter from Woodbury to Simmons dated Dec. 11, 1989) The charges filed with the NLRB by the secretaries has had a trial date set.
>
> These charges are being filed with you since there would not be any justice served within our local for fear of reprisals. As an example, for speaking out against Doug Woodbury and Louise Rogers in an attempt to exercise the right of political opposition, three Vice Presidents out of four, and five district stewards out of six and the chief steward have all be removed, forced to resign, or are not allowed to perform the duties of the offices they were elected.
>
> Please assist us in regaining our local.
>
> Sincerely,
>
> /s/ Judith Beal
> Judith Beal
>
> cc: Harry Ibsen
>
> (R. Exh. 5)

Finally Beal prepared a flyer which she distributed to her supporters. In part this document reads as follows:

> UNFAIR LABOR PRACTICE: One of the charges against President Woodbury (on the recall petition) dealt with his interfering with the Local secretaries' desire to become union represented. Subsequently the Local's secretaries filed an unfair labor practice against our '1989 Labor Leader of the Year.' The hearing for the unfair labor practice is scheduled for Thursday, May 31st at 9:00 a.m. at 555 W. Beech Street, 3rd Floor (NLRB office). It is an open hearing and anyone can attend. Hope to see you there!
>
> (R. Exh. 8)

B. *Analysis and Conclusions*

1. Preliminary findings

a. *Was Cole a statutory supervisor, manager or confidential employee*

Although this case does not present an 8(a)(5) refusal to bargain allegation, I nevertheless find it helpful for background purposes only, to consider Respondent's claim that Cole was promoted out of the unit into the job of office manager, a statutory supervisor, and/or manager or confidential employees.

As a general rule, the promotion of an employee out of the unit into a supervisory position is a matter of management perogative. *KONO-TV Mission Telecasting Corp.*, 163 NLRB 105, 107–108 (1967). However, if the promotion is motivated by an unlawful purpose, the Board will become involved. Since Respondent asserts that Cole became a statutory supervisor, Respondent has the burden to prove that status. *John Ascuaga's Nugget*, 298 NLRB 524 fn. 24 (1990). I find in this case that Respondent has failed to prove that Cole ever became a statutory supervisor.

To be sure, Cole was given the title of office manager and a considerable increase in salary. However, in *Mack's Supermarkets*, 288 NLRB 1082, 1084 (1988), the following general statement of Board-approved law appears:

> First, it is clear that an individual's status as a supervisor is not determined by his/her title or job classification, but rather is determined from the individual's functions and authority. Section 2(11) of the Act defines a supervisor as follows:
>
> > The term ''supervisor'' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
>
> The statutory indicia outlined above in Section 2(11) of the act are in the disjunctive and only one need exist to confer supervisory status on an individual. *Opelika Foundry*, 281 NLRB 897 (1986) and *Albany Medical Center Hospital*, 273 NLRB 485 at 486 (1984). See also, *Olympia Plastics Corp.*, 266 NLRB 519 at 530 (1983). However, in order for supervisor status to exist, the exercise of one or more of the outlined powers must be accomplished with independent judgment on behalf of management in other than a routine or clerical manner. Put another way, the statute expressly insists that a supervisor, (1) have authority, (2) to use independent judgment, (3) in performing supervisory functions, (4) in the interest of management. These latter requirements are conjunctive. *Hydro Conduit Corp.*, 254 NLRB 433 (1981); *NLRB v. Security Guard Service*, 384 F.2d 143, 147–148 (5th Cir. 1967). . . . As noted in *Hydro Conduit Corp.*, supra, ''The Board has a duty to employees to be alert not to construe supervisory status too broadly because the employee who is deemed a supervisor is denied employee rights which the Act is intended to protect.'' *Westinghouse Electric Corp. v. NLRB*, 424 F.2d 1151, 1158 (7th Cir. 1970), cert. denied 400 U.S. 831 (1971).

In finding that Cole was never a statutory supervisor, under the rules of law quoted above, I do not credit Hinton who testified that at an executive board meeting of August 2, 1988, Sarmiento asked Woodbury what Cole's new duties would be as office manager. Allegedly, Woodbury replied that Cole's new title was a title in name only and would not carry any management responsibilities with it. Woodbury denied making such a statement, no minutes of the meeting were introduced as proof of Woodbury's statement, and no one else, not even Sarmiento, corroborated Hinton on this point. Yet there is abundant other evidence to show that Cole was never a statutory supervisor.

For example, I find that Woodbury told both Beal and Sarmiento that notwithstanding Cole's promotion, all work requests would continue to go through Stegall. Both before and after her promotion, Cole essentially performed clerical work without using independent judgment or discretion. *NLRB v. A.E. Nettleton*, 241 F.2d 130, 132 (2d Cir. 1957). She did not schedule work, determine priorities or evaluate Shull, except in the most routine manner. See *Gem Urethane*

Corp., 284 NLRB 1349 (1987). Stegall or Rogers scheduled the work and determined priorities. Moreover, if Cole were a supervisor of Shull, along with Stegall and Rogers, who are admitted supervisors, the ratio of supervisors to employees would be inordinately high. Compare *Luke's Supermarket*, 228 NLRB 763, 763–764 (1977).

As to granting of time off, Cole had no authority to do this. Compare *Tra-Mar Communications*, 265 NLRB 664, 684–695 (1982).

It is true that on at least two occasions, Cole spoke to Shull about her attendance problems. This sporadic exercise of disciplinary authority is not sufficient to show supervisory status. *Ohio Masonic Home*, 295 NLRB 390 (1989); *Kent Products*, 289 NLRB 824 (1988); *Artcraft Displays*, 262 NLRB 1233 (1982). Moreover, Cole was merely following orders of Stegall when she admonished Shull.

Shull never considered Cole to be her supervisor and understood that Cole was merely obeying Stegall's orders in admonishing her about attendance. As noted in the Facts section, above, Cole had an attendance problem of her own, missing on the average about one work day every month versus two every month for Shull.

In sum, Cole's newly defined authority was illusory. Cf. *Ohio Masonic Homes*, supra. Respondent has fallen far short of proving her to have been a statutory supervisor.

Respondent has also failed to prove that Cole was a manager or agent of Respondent. I find no holding out of Cole with apparent or ostensible authority. No evidence was presented that Shull or anyone else considered Cole to be acting for management. Compare *Aircraft Plating Co.*, 213 NLRB 664 (1974). In fact the reverse is true. Cole always identified with the interests of the unit.

Cole was a confidential employee only if the evidence proves that she assisted and acted in a confidential capacity to persons who formulate, determine and effectuate management policies in the field of labor relations. It is insufficient that an employee may on occasion have access to certain labor related or personnel type information. What is contemplated instead is that a confidential employee is involved in a close working relationship with an individual who decides and effectuates management labor policy and is entrusted with decisions and information regarding the policy before it is made known to those affected by it. *Intermountain Rural Electric Assn.*, 277 NLRB 1 (1985); *Mega Van & Storage*, 294 NLRB 975 (1989).

Under this test, Cole did not act as Woodbury's confidential secretary. In this respect, I note that Cole was recommended for her job by Nancy Master, a rebuttal witness for General Counsel and a strong supporter of Judy Beal. Almost from the beginning of her so-called promotion, Cole was suspected of leaking information to Beal's faction. Yet the fact is, Shull was also suspected, although neither were privy to information considered confidential under the Board's definition. Woodbury's suspicion as to the loyalty of both Cole and Shull made it most unlikely that either would be entrusted with information of a confidential nature, and the record establishes no such entrustment was ever made. In sum, Cole answered mail, screened phone calls, made travel arrangements, typed correspondence, and performed other clerical duties which would be expected of a secretary. But Cole did not perform duties of a confidential nature.

b. *Conclusions with respect to single person unit*

I conclude my preliminary findings by noting that the Board will not certify a one-person unit, because the principle of collective bargaining presupposes that there is more than one eligible person who desires to bargain. . . . the Act does not preclude bargaining with a union on behalf of a single employee, if an employer is willing. The Board has never held, however, that a employer's refusal to bargain with a representative on behalf of a one-person unit is a refusal to bargain within the meaning of Section 8(a)(5). *Foreign Car Center*, 129 NLRB 319, 320 (1960).

As noted above, no 8(a)(5) violation has been charged. Further, I am not asked by General Counsel to find an 8(a)(5) violation on the grounds that said issue has been thoroughly and fairly litigated. Under these circumstances, I find as a matter of background only that Woodbury purported to promote Cole out of the unit for the purpose of defeating Cole and Shull's Section 7 rights to engage in protected concerted activities. In addition to the evidence showing that Cole's duties never changed in any substantial or significant fashion after her alleged promotion, other evidence also supports this conclusions.

Much of this evidence is recited in the Facts and need not be repeated. For example, I note the timing of Cole's purported promotion, shortly after Woodbury received copies of the clericals' signed authorization cards. I note Woodbury's supposed letter of September 7, 1988, to Simmons, which she never received, offering to negotiate a contract, when Simmons had withdrawn OPEIU's petition almost 1 month before. I also note the evidence with respect to Woodbury's motive in opposing the clericals' organizing activities, as recited below. In addition, at the time of her so-called promotion or shortly after, Cole told Woodbury that she knew that her promotion was related to the petition filed by OPEIU (Tr. at 95). I also credit Sarmiento's testimony which is consistent with other evidence presented that in a July 1988 conversation, Woodbury said all he had to do to stop the clericals' organizing campaign was to make one of the secretaries a manager.

Evidence explaining why Woodbury opposed the clericals' organizing activities was provided by Hinton. She testified that on August 1, 1988, she spoke to Stegall who told her that Woodbury resented the grievance filed against him by Penny Massee and the subsequent arbitration which ultimately was settled. According to Hinton, quoting Stegall, Woodbury resolved never to allow himself to get into that position again.

Although Stegall ''couldn't recall'' this conversation with Hinton on the day in question (Tr. at 551–552), I credit Hinton's testimony because it is entirely consistent with other evidence in the case. For example, Masten testified in rebuttal that in the summer of 1988, she had a conversation with Woodbury himself. She told Woodbury that she couldn't understand why he was so upset with the clericals wanting to go union. To this Woodbury stated that Masten simply didn't understand. Masten countered that ''you of all people should want them to become union.'' Opposing their organizing, she told Woodbury, ''goes against everything we believe in.'' ''They should become union. They want to be union'' (Tr. at 929).

In response to these entreaties, Woodbury stated, ''I take care of them, I pay them more than what their contract

would allow. And I can't live with some of the restrictions within the contract.'' Asked by Masten for examples of restrictive conditions, Woodbury cited the expense of overtime hours (Tr. at 930). The evidence provided by Hinton and Masten explains Woodbury's motivation in opposing the clericals' efforts to obtain representation. I turn now to the specific allegations of the complaint, keeping in mind the compelling background conclusions cited above.

2. Alleged violations of the Act

a. *Did Respondent orally promulgate a rule prohibiting employees from discussing wages, hours, and other terms and conditions of employment?*

Section 8(a)(1) of the Act, 29 U.S.C. § 158(a)(1), prohibits employer conduct that ''interferes with, restrains, or coerces employees'' in the exercise of their rights under Section 7 of the Act, 29 U.S.C. § 157. Section 7 guarantees employees ''the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other activities for the purpose of collective bargaining.''

Respondent is charged here and in subsequent allegations with violating Section 8(a)(1) of the Act. If Respondent announced a rule restricting employees from discussing wages, hours, and other terms and conditions of employment, there is a violation of Section 8(a)(1) of the Act. *Jeanette Corp.*, 217 NLRB 653, 656 (1975), enfd. 532 F.2d 916 (3d Cir. 1976); *Super One Foods #601*, 294 NLRB 462 (1989); *Service Merchandise Co.*, 299 NLRB 1125 (1990).

I have found in the facts that on November 7, Shull was admonished by Woodbury for sending a letter to the executive board. In the course of that conversation, Woodbury threatened to terminate Shull if she discussed any personnel matters or complaints with anyone other than himself, Rogers, or Stegall. I find this statement to Shull violated Section 8(a)(1) of the Act. In *Kinder-Care Learning Centers*, 299 NLRB 1171 (1990), the Board stated:

> Under Section 7 of the Act, employees have the right to engage in activities for their ''mutual aid or protection,'' including communicating regarding their terms and conditions of employment.[3] It is well established that employees do not lose the protection of the Act if their communications are related to an ongoing labor dispute and are not so disloyal, reckless, or maliciously untrue[4] as to constitute, for example, ''a disparagement or vilification of the employer's product or reputation.''[5] For example, the Board has found employees' communications about their working conditions to be protected when directed to other employees,[6] an employer's customers,[7] its advertisers,[8] its parent company,[9] a news reporter,[10] and the public in general.[11]

[3] See *Eastex, Inc. v. NLRB*, 437 U.S. 556 (1978).

[4] Cf. *NLRB v. Electrical Workers IBEW Local 1229 (Jefferson Standard)*, 346 U.S. 464 (1953).

[5] See *Sahara Datsun*, 278 NLRB 1044, 1046 (1986), enfd. 811 F.2d 1317 (9th Cir. 1987), quoting *Allied Aviation Service Co. of New Jersey*, 248 NLRB 229, 230 (1980), enfd. 636 F.2d 1210 (3d Cir. 1980).

[6] In addition to *Waco, Inc.*, 273 NLRB 746 (1984), cited by the judge, see also *Heck's, Inc.*, 293 NLRB No. 132, slip op. at 23 (May 18, 1989), and *Scientific-Atlanta, Inc.*, 278 NLRB 622, 625 (1986).

[7] *Greenwood Trucking, Inc.*, 283 NLRB 789 (1987).

[8] *Sacramento Union*, 291 NLRB No. 83 (Oct. 31, 1988), enfd. 899 F.2d 210 (9th Cir. 1989).

[9] *Oakes Machine Corp.*, 288 NLRB 456 (1988), enfd. 897 F.2d 84 (2d Cir. 1990); *Mitchell Manuals, Inc.*, 280 NLRB 230, 232 fn. 7 (1986).

[10] *Auto Workers Local 980*, 280 NLRB l378 (1986), enfd. 819 F.2d 1134 (3d Cir. 1987); *Roure Bertrand Dupont, Inc.*, 271 NLRB 443 (1984).

[11] *Cincinnati Suburban Press*, 289 NLRB No. 127 (July 20, 1988).

Even if Woodbury's statements to Shull are interpreted as meaning only that Shull should first take any work related complaint to Woodbury, to Stegall or to Rogers, the statement is a violation of the Act because it tends to inhibit employees from banding together by requiring that, in each such case, an employee must approach Respondent's officers before invoking the assistance of a union and perhaps even before discussing the issue with other employees. *Kinder-Care Learning Centers*, supra.[12]

Respondent contends in its brief that Woodbury's conversation was a reasonable attempt to prevent Shull from involving Respondent's executive board in internal office personnel issues. However, so long as the concerted activity is not unlawful, violent, in breach of contract or disloyal, employees engaged in such concerted activity generally do not lose the protective mantle of the Act, simply because their activity contravenes an employer's rule or policies. *Louisiana Council No. 17*, 250 NLRB 880, 882 (1980). Since Shull's letter does not fall within any category listed above, Respondent's attempt to restrict her protected activity must fail.

b. *Did Respondent threaten Cole with the withdrawal of aid in returning to her former employer, with whom Respondent has a collective-bargaining agreement, if Cole engaged in protected concerted activities?*

I have found in the facts above that on or about November 22, Woodbury threatened Cole with withholding efforts to secure her old job back at PacBell. The basis for this threat was related to Cole's desire to be represented by a union. Thinly veiled or vague threats to an employee with respect to their union activities violate Section 8(a)(1) of the Act and I so find. *APA Transport Corp.*, 285 NLRB 928, 931 (1987); *Waterbed World*, 286 NLRB 425, 427 (1987).

c. *Did Respondent threaten its employees with a layoff if employees engaged in union and/or protected concerted activity?*

After both Cole and Shull signed union authorization cards, Woodbury told Cole on November 29, that she would have to be returned to the unit and then she or Shull would be subject to layoff when Woodbury hired a new office manager. As I have found that Cole was never a statutory supervisor in the first place, and therefore never left the unit, Woodbury's threat to return her to the unit where she was subject to layoff violated Section 8(a)(1) of the Act, as it was based on Cole's union activities. See *Horton Automatics*, 289 NLRB 405 (1988).

[12] In fact, Shull could not even discuss her grievances with the Board under Woodbury's directive. This is still another reason why Respondent has violated Sec. 8(a)(1) of the Act. *Ibid.*

d. *Did Respondent threaten Cole with a change in wages if she continued to engage in union activities?*

As part of the conversation referred to above on November 29, Woodbury also told Cole that if she returned to the unit, he wasn't certain if her salary would be affected. The implied statement that Cole's salary increase when she purportedly became office manager, was then in jeopardy violated Section 8(a)(1) of the Act. *Dura-Vent Corp.*, 257 NLRB 430, 432 (1981).

e. *Did Respondent threaten Cole with discharge because of her union activities?*

On December 7, Woodbury called Cole into his office and told her she had been making some mistakes, so she should be more careful. On cross-examination, Cole admitted that she had been making some mistakes (Tr. at 418). Woodbury also told Cole he'd hate to lose her so she should take it easy. Then he added that a lot of people's personalities were changing. Woodbury concluded by saying that he still intended to help her return to her old job at PacBell.

I will recommend that this allegation be dismissed. There is no evidence that Woodbury's admonition was tied to Cole's union activities and Woodbury reiterated his intent to help her return to her former job. I also find no evidence that Cole's mistakes had been tolerated prior to her union activities, thus raising an inference that this oral reprimand was caused by the union activities. For example, the record shows Cole had an attendance problem of long standing, which was tolerated both before and after her union activities began.

In conclusion, I note that except for the final allegation, I have found violations in all others. To the extent Respondent contends that Cole and Shull were merely being disciplined for their allegedly unprotected participation in internal union politics, I note the Board has rejected such a defense where the evidence does not support the defense. See *Louisiana Council No. 17*, supra, at 880. So too, do I reject the contention here, as I find that both Cole and Shull were engaged in protected concerted activities at all times material to this case.

CONCLUSIONS OF LAW

1. The Respondent is an employer within the meaning of Section 2(6) and (7) of the Act.

2. The Respondent violated Section 8(a)(1) of the Act in the following particulars:

(a) By promulgating a rule forbidding its employees from discussing any personnel matters with anyone other than designated officials of the union;

(b) By threatening an employee with withdrawal of aid in assisting an employee to return to her former employment because of the employee's protected concerted activities;

(c) By threatening an employee with a layoff because of the employee's protected concerted activities; and

(d) By threatening an employee with a change in wages because of the employee's protected concerted activities.

3. Other than found above, Respondent has committed no other unfair labor practices.

4. The above unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that Respondent has violated the Act by engaging in certain unfair labor practices, I shall recommend that Respondent be ordered to cease and desist and to take certain affirmative actions designed to effectuate the purposes of the Act.

ORDER

The Respondent, Communications Workers of America, AFL–CIO, Local 9509, San Diego, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Promulgating, maintaining and enforcing its unlawful rule prohibiting employees from discussing personnel matters with anyone other than designated officials of the union.

(b) Threatening employees, with withdrawal of aid in assisting an employee to return to her former employment because of the employee's protected concerted activities.

(c) Threatening employees, with a layoff because of the employee's protected concerted activities.

(d) Threatening employees, with a change in wages because of the employee's protected concerted activities.

(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Immediately rescind the rule against employees discussing personnel matters with anyone other than designated union officials.

(b) Post at its San Diego, California facility the attached notice marked ''Appendix.''[13] Copies of the notice, on forms provided by the Regional Director for Region 21 after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in a conspicuous place where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notice is not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[13] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize
To form, join, or assist any union
To bargain collectively through representatives of their own choice
To act together for other mutual aid or protection
To choose not to engage in any of these protected concerted activities.

WE WILL NOT promulgate, maintain, or enforce a rule prohibiting you from discussing personnel matters or other terms or conditions of employment with anyone other than designated officials of the Union.

WE WILL NOT threaten employees, with withdrawal of aid in assisting an employee to return to her former employment because of the employee's protected concerted activities.

WE WILL NOT threaten employees, with a lay-off because of the employee's protected concerted activities.

WE WILL NOT threaten employees, with a change in wages because of the employee's protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of rights guaranteed you by Section 7 of the Act.

WE WILL rescind our rule prohibiting employees from discussing personnel matters with anyone other than designated officials of the Union.

COMMUNICATIONS WORKERS OF AMERICA, AFL–CIO, LOCAL 9509